

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**STONECREST HOMES, LLC, and
CARMICHAEL & DAME DESIGNS, INC.,**

vs.

Plaintiffs,

Case No. 04-C-431

**SCHMID BROTHERS BUILDERS, INC.,
JR CONSTRUCTION SERVICES, INC., and
JOHN RIPHAHN,**

Defendants.

SCHMID BROTHERS BUILDERS, INC.,

Third-party Plaintiff,

vs.

JR CONSTRUCTION SERVICES, INC.,

Third-party Defendant.

**ORDER ADOPTING PARTIES'S STIPULATION, DISMISSING CARMICHAEL & DAME
DESIGNS, INC. FROM ACTION, DISMISSING CERTAIN MOTIONS, AND SETTING
FORTH PENDING CLAIMS OF THE PARTIES**

Having considered the Stipulation of the parties filed on November 23, 2005,

**NOW THEREFORE, BASED UPON THE FOREGOING, IT IS HEREBY
ORDERED THAT:**

(1) The parties' Stipulation filed on November 23, 2005, is **APPROVED**; with the corrections that the third-party complaint of Schmid Brothers Builders, Inc., was filed September 1, 2004, not on August 23, 2004, and the cross-claim and counterclaim of JR Construction Services, Inc.,

and John Riphahn was filed on November 4, 2004, not on November 3, 2004; and

(2) Based on that Stipulation, plaintiff Carmichael & Dame Designs, Inc. is **DISMISSED** from this action.

(3) The following motions are hereby **DISMISSED AS MOOT**:

[Doc. #45] Carmichael & Dames Designs, Inc.'s Motion for Partial Summary Judgment;

[Doc. #49] Schmid Brothers Builders, Inc.'s Motion for Partial Summary Judgment;

[Doc. #83] JR Construction Services, Inc.'s Motion for Partial Summary Judgment against Plaintiff Carmichael & Dame Designs, Inc.;

[Doc. #99] John Riphahn's Motion for Partial Summary Judgment against Carmichael & Dame Designs, Inc.;

[Doc. #109] JR Construction Services, Inc. and John Riphahn's Motion to Strike; and

[Doc. #110] JR Construction Services, Inc. and John Riphahn's Motion to Strike.

(4) The following claims remain pending in the case:

(a) The claims of Stonecrest Homes, LLC in the amended complaint filed on September 17, 2004, against defendants Schmid Brothers Builders, Inc., JR Construction Services, Inc., and John Riphahn;

(b) The respective claims of Schmid Brothers Builders, Inc., JR Construction Services, Inc., and John Riphahn against each other for

indemnification and contribution as to any liability that may be found to
Stonecrest Homes, LLC;

- (c) The claims of JR Construction Services, Inc. and John Riphahn against
Schmid Brothers Builders, Inc. for breach of contract in the cross-claim
and counterclaim filed on November 4, 2004, and;
- (d) The claims of Schmid Brothers Builders, Inc. against JR Construction
Services, Inc. in the third-party complaint filed September 1, 2004, for
indemnification and/or contribution from JR Construction Services, Inc.
as to any liability that may be found as to Stonecrest Homes, LLC.

Dated at Milwaukee, Wisconsin, this 30th day of November, 2005.

BY THE COURT:

s/ Rudolph T. Randa

Hon. Rudolph T. Randa
Chief Judge